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BILL



ANALYSIS

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Senate Bill 105 (Substitute S-1 as reported)
Senate Bills 106 and 107 (as reported without amendment)
Sponsor: Senator Tonya Schuitmaker (S.B. 105 & 106)
Senator Rick Jones (S.B. 107)
Committee: Judiciary

CONTENT

Senate Bill 105 (S-1) would amend the DNA Identification Profiling System Act to require the collection of a DNA sample from anyone arrested for committing or attempting to commit a felony. This would be in addition to current provisions for the collection of DNA samples from certain prisoners, convicted offenders, and juvenile offenders, and the analysis of those samples.

Under the Act, if a sample was collected from an individual who does not have more than one conviction, and that conviction was reversed by an appellate court, the individual may petition the sentencing court to order the disposal of the sample and DNA identification profile record for that conviction. Under the bill, the court would be required to order the disposal of the sample and profile record under these circumstances, and the individual would not have to petition the court.

Senate Bill 106 would amend the juvenile code to require an individual to provide samples for chemical testing for DNA identification profiling or a determination of the sample's genetic markers and to provide samples for chemical testing for a determination of his or her secretor status if the individual were arrested for committing or attempting to commit a felony. Currently, the requirements to provide samples for chemical testing apply to an individual found responsible for certain violations and an individual convicted of a felony or a specified misdemeanor.

Senate Bill 107 would amend the Michigan Penal Code to require a person to provide samples for chemical testing for DNA identification profiling or a determination of the sample's genetic markers and to provide samples for chemical testing if he or she were arrested for committing or attempting to commit a felony. That requirement currently applies to a person arrested for a violent felony as defined in the corrections code. (That definition includes various assault offenses; first-degree murder, second-degree murder, and manslaughter; kidnapping; hostage-taking by a prisoner; mayhem; first-, second-, third-, or fourth-degree criminal sexual conduct (CSC); assault with intent to commit CSC; carjacking; and use of force or violence or possession of a weapon, during the course of committing larceny.)

All three bills would reinstate a \$60 assessment that courts were required to order before October 1, 2003, for each individual found responsible for or convicted of a crime for which DNA sample collection is required, and reinstate a requirement that 65% of the revenue from that assessment go to the Michigan Department of State Police (MSP) Forensic Science Division to defray the costs associated with DNA profiling and detention requirements.

The three statutes also require that, beginning October 1, 2003, 65% of the \$60 assessment revenue be transmitted to the State Treasurer for deposit in the Justice System Fund. The bills would delete those requirements.

MCL 28.172 et al. (S.B. 105)
712A.18k (S.B. 106)
750.520m (S.B. 107)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have an indeterminate, yet minor fiscal impact on State and local law enforcement agencies. Under current law, the 23 violent felony arrests that require the collection of DNA samples generate approximately 3,000 samples annually. The bills would require the collection of a DNA sample from anyone arrested for committing or attempting to commit any felony. The MSP estimates that in 2012 there were approximately 12,000 individuals arrested for all felonies who did not already have a DNA sample on file. The MSP is unable to determine how many of these arrestees were ultimately convicted, which under current law, would require collection of DNA samples.

Of the approximately 12,000 individuals arrested in 2012 for all felonies who had not yet had DNA samples taken, 3,000 were already subject to collection under current law, others would be subject to collection upon conviction, and yet others would be counted more than once if a person had been arrested for more than one felony in a year. Therefore, it is possible to estimate that an additional 7,000 to 8,000 felony arrestees would be subject to DNA collection under the bills.

The cost associated with these additional DNA collections would include the cost of a DNA collection kit; the labor, primarily at the local law enforcement level, to obtain the sample; and laboratory workers at the MSP lab to process and analyze (and in certain instances remove and destroy) the sample. The DNA kits cost \$7.50 each and are provided without charge by the MSP to law enforcement agencies. The additional kits could cost the MSP up to \$60,000, although the Department has stated that it is confident it would be able to obtain most, if not all of these costs from Federal grant funds, which have funded kit purchases in the past. Local law enforcement agencies would be required to administer additional mouth-swab DNA collections, a simple procedure that should not significantly increase their costs. Regarding the additional State crime lab processing and analysis that would be required, the Department has stated that it could handle the additional workload with current resources.

On the revenue side, the bill would redirect 65% of a reinstated \$60 assessment on convictions in which DNA collection is required, to the MSP Forensic Science Division to defray costs associated with DNA processing and storage. According to the Department, in the last year in which this assessment was administered – 2002 – the Forensic Science Division received approximately \$185,000.

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Fiscal Analyst: Bruce Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.